





Unni Krishnan, J.P. & Ors. v. State of Andhra Pradesh & Ors. Cited as: 1993 AIR 217, 1993 SCR (1) 594, 1993 SCC (1) 645, JT 1993 (1) 474, 1993 SCALE (1)290

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Constitutional challenge querying whether the “right to life” in Article 21 of the Constitution of India guarantees a fundamental right to education to citizens of India; role of economic resources in limiting right to education; interplay between Directive Principles and State Policy in the Constitution and Fundamental Rights; whether the right to education includes adult professional education.

Date of the Ruling:

Feb 4 1993

Forum:

Supreme Court of India

Type of Forum:

Domestic

Summary:

The case involved a challenge by certain private professional educational facilities to the constitutionality of state laws regulating capitation fees charged by such institutions.

The Supreme Court held that the right to basic education is implied by the fundamental right to life (Article 21) when read in conjunction with the directive principle on education (Article 41). The Court held that the parameters of the right must be understood in the context of the Directive Principles of State Policy, including Article 45 which provides that the state is to endeavour to provide, within a period of ten years from the commencement of the Constitution, for free and compulsory education for all children under the age of 14. The Court ruled that there is no fundamental right to education for a professional degree that flows from Article 21. It held, however, that the passage of 44 years since the enactment of the Constitution had effectively converted the non-justiciable right to education of children under 14 into one enforceable under the law. After reaching the age of fourteen, their right to education is subject to the limits of economic capacity and development of the state (as per Article 41). Quoting Article 13 of the International Covenant on Economic, Social and Cultural Rights, the Court stated that the state's obligation to provide higher education requires it to take steps to the maximum of its available resources with a view to achieving progressively the full realization of the right of education by all appropriate means.

Keywords: Unni Krishnan, J.P. & Ors. v. State of Andhra Pradesh & Ors. Cited as: 1993 AIR 217, 1993 SCR (1) 594, 1993 SCC (1) 645, JT 1993 (1) 474, 1993 SCALE (1)290, Education, Rights

Enforcement of the Decision and Outcomes:

The state responded to this declaration nine years later by inserting, through the Ninety-third amendment to Constitution, Article 21-A, which provides for the fundamental right to education for children between the ages of six and fourteen. In addition, several States in India have passed legislation making primary education compulsory. These statutes “have however remained un-enforced due to various socio-economic and cultural factors as well as administrative and financial constraints. There is no central legislation making elementary education compulsory.” (see Kothari below).

Significance of the Case:

The Court in Unni Krishnan expressed its disagreement with the finding in the earlier case of *Mohini Jain v State of Karnataka* (<http://judis.nic.in/supremecourt/qrydisp.asp?tfnm=12349>) 1992 AIR 1858 that the right to education at all levels is guaranteed by the Constitution. In the subsequent case of *M.C. Mehta v State of Tamil Nadu & Ors* (1996) 6 SCC 756; AIR 1997 SC 699, the Supreme Court stated that Article 45 had acquired the status of a fundamental right following the Constitutional Bench's decision in *Unni Krishnan*.

In addition, the Court said that, in order to treat a right as fundamental right, it is not necessary that it should be expressly stated as one in Part III of the Constitution: “the provisions of Part III and Part IV are supplementary and complementary to each other”. The Court rejected that the rights reflected in the provisions of Part III are superior to the moral claims and aspirations reflected in the provisions of Part IV.


Thematic Focus:

- Education (Right to) (/thematic-focus/education-right)
- Life (Right to) (/thematic-focus/life-right)

Country:

- India (/country/india)

Ruling:

 unni_krishnan_judgment.doc (https://www.escri-net.org/sites/default/files/unni_krishnan_judgment.doc)

Related Resources:

- Jayna Kothari, □Social Rights and the Indian Constitution' (/docs/i/401036)
- C. Raj Kumar, □International Human Rights Perspectives on the Fundamental Right to Education --Integration of Human Rights and Human Development in the Indian Constitution' (/docs/i/404185)
- Circle of Rights: Justiciability of ESC Rights -- the Indian Experience (/docs/i/404186)
- Rajendra Kundu, □The Right to Education: Some Theoretical Issues' (/docs/i/404188)

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